

# State of South Dakota

## EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

400Q0189

### SENATE BILL NO. 18

Introduced by: The Committee on Transportation at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to update certain provisions pertaining to motor carrier  
2 safety and transportation of hazardous materials.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-28A-3 be amended to read as follows:

5 49-28A-3. The state hereby adopts Title 49 of the Code of Federal Regulations, subtitle B,  
6 chapter I, subchapter A, part 107 (subparts F and G only) and subchapter C, parts 171 to 180,  
7 inclusive, as amended through January 1, ~~2008~~ 2009, and Title 49 of the Code of Federal  
8 Regulations, subtitle B, chapter III, subchapter B, parts 390 to 397, inclusive, as amended  
9 through January 1, ~~2008~~ 2009, with the following modifications:

10 (1) All references to interstate operations shall also include intrastate operations except  
11 that drivers and motor carriers operating intrastate vehicles and combinations of  
12 vehicles with three axles or less or with a gross vehicle weight rating of not more  
13 than twenty-six thousand pounds which are not used to transport hazardous materials  
14 requiring placarding under part 177, or designed to transport more than fifteen  
15 passengers, including the driver, are not subject to parts 390-397;



1       (2)   For the purposes of part 391.11(b)(1), a driver shall be at least twenty-one years old  
2           if engaged in interstate commerce, or transporting hazardous material of a type or  
3           quantity requiring placarding under part 177, or operating a vehicle designed to  
4           transport more than fifteen passengers, including the driver. All other drivers shall  
5           be at least sixteen years of age;

6       (3)   Intrastate drivers are exempt from the physical requirements of part 391.41.

7       Any violation of parts 390 to 396, inclusive, the motor carrier safety requirements governing  
8       the qualifications of drivers, driving of motor vehicles, parts and accessories necessary for safe  
9       operation, notification and reporting of accidents, assistance with investigations and special  
10      studies, hours of service of drivers, inspection, repair, and maintenance is a Class 2  
11      misdemeanor. Any violation of the hazardous materials regulations pertaining to registration of  
12      cargo tank motor vehicles, registration of persons who offer or transport hazardous materials,  
13      general information, regulations and definitions, hazardous materials tables, hazardous materials  
14      communication regulations, and test and inspection marking requirements found in parts 107  
15      (subparts F and G only), 171, 172, and 178 to 180, inclusive, is a Class 2 misdemeanor. Any  
16      violation of the hazardous materials regulations pertaining to packaging, prohibited shipments,  
17      loading and unloading, segregation and separation, retesting and inspection of cargo tanks, and  
18      other carriage by regulations found in parts 173 to 180, inclusive, or violation of the driving and  
19      parking rules in part 397, is a Class 1 misdemeanor.